Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Amendment of the Commission's	)	CC Docket No. 95-115
Rules and Policies to Increase	)	
Subscribership and Usage of the	)	
Public Switched Network	)	

GTE's COMMENTS

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domestic telephone operating companies

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SUMMARY

GTE commends the FCC for initiating this timely inquiry, and shares the Commission's concern that the direct benefits of telephone service are not reaching all segments of the population. In these comments, GTE recommends ways by which the effective opportunity to enjoy the direct benefits of telephone service can be extended to the entire population.

Recent studies show that the reasons why households do not take telephone service are varied and complex, and are interwoven with the values and life-styles of the people involved. Surveys indicate, for example, that many of the poor decide they prefer to spend the price of telephone service on such alternatives as cable television because they consider this alternative more valuable or less threatening. The legitimacy of this choice made by consumers contending with poverty is not diminished merely because others, having different values and leading different lives, would make a different choice. Freedom necessarily entails the right to make lawful decisions that others might consider erroneous.

In any case, the reasons for a household not taking telephone service typically arise from considerations that are external to the telephone network. A wide variety of complex social problems are reflected in telephone subscribership levels. Those social problems -- which are also reflected in such indicators as crime rates, divorce rates, and school drop-out rates -- are created by neither the telephone network nor the Local Exchange Carrier ("LEC" or "exchange carrier"). It is unfair and unworkable to impose on the LEC as a business enterprise engaged in competition with less encumbered enterprises responsibility for elements it cannot reasonably control.

While it is appropriate for the Commission to make sure the opportunity to obtain telephone service is extended universally, GTE must express concern with implications in the Notice (at para. 11) that appear to make the simplistic assumption that high penetration rates represent "success." These implications are especially alarming when there is no apparent effort to evaluate offsetting costs that would work against the interests of all ratepayers, including those ratepayers who are poor.

Further, in addressing proposals of the Notice, it is important to evaluate realistically their likely effect on the decisions actually made by customers. Even under the unfortunate Pennsylvania plan discussed *infra*, the Notice (at para. 11 and n.10) indicates three percent of the households do not take telephone service. This figure is a useful benchmark suggesting the best penetration level likely to be attained under any circumstances is about ninety-seven percent -- which represents an improvement in penetration over the 1984 Pennsylvania level (94.9 percent) of only about two percentage points. GTE urges the Commission to beware of costly programs throwing significant burdens on the entire body of ratepayers -- including the poor -- for the sake of a supposedly beneficial impact on perhaps two households out of a hundred.

The implication of the Notice (at paras. 11, 16-19, 30) that the Pennsylvania plan is a success is especially alarming. As demonstrated *infra*, the Pennsylvania plan rewards dishonest and manipulative behavior while imposing on exchange carriers and interexchange carriers ("IXCs") heavy costs that fall on all subscribers. This plan teaches all the wrong lessons.

Thus, the Pennsylvania plan represents policy moving backwards. Given that exchange carriers face the challenges of a competitive environment, instead of moving toward allowing the LEC to function as an independent business enterprise free to employ standard business procedures, such a plan forces LECs back toward the quasi-governmental status associated with a protected monopoly. Applied nationwide, such a plan would move the present regulatory asymmetry a giant step in the wrong direction.

Under such a plan, not only would LECs be required as Carriers of Last Resort ("COLRs") to serve categories of customers (*e.g.*, customers residing in areas that are very expensive to serve) that other service providers do not wish to serve -- at least not at a dictated price; LECs would also be required to serve those individual customers that other service providers do not wish to serve, *i.e.*, those customers who have shown themselves to be unwilling or unable to pay for what they have purchased.

Such a plan would take to another dimension the unbalanced current environment, under which exchange carriers are obliged to serve the least profitable -- or even the unprofitable -- customers, while their competitors are free to skim the richest cream. Such an outcome would bear no resemblance to a genuine competitive environment, and would not bring to the public the benefits of competition.

In contrast, there are already in existence sensible and viable offerings that would be likely to improve subscribership levels. A cooperative program of government and industry could encourage such offerings, and encourage improved communication by companies and government, to assure awareness of options by the populations involved.

GTE does not believe there is a need for imposition by the FCC of any new requirements. Adopting GTE's recommendations submitted in *Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board*, CC Docket No. 80-286

("*D.80-286*"), combined with the cooperative program suggested *supra*, would in GTE's view be enough to promote higher subscribership rates without excessive offsetting costs.

Finally, if the FCC insists on imposing new requirements: (i) they should apply equally to all providers of residential service; (ii) they would represent an exogenous cost under the FCC's price cap rules; (iii) they must be designed to avoid a confiscatory result by making provision for recovery of any revenue deficiency vis-a-vis cost from funding sources outside the service provider itself -- which would be accomplished by implementing GTE's recommendations in *D.86-286*.

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GTE's COMMENTS

GTE Service Corporation and its affiliated domestic telephone operating companies ("GTE") respond to the FCC's Notice of Proposed Rulemaking (the "NPRM" or "Notice")[1], seeking comment on a variety of proposals intended to assist households that presently do not have telephone service to both obtain and retain service.

BACKGROUND

The NPRM (at para. 1) observes that although telephone subscribership has attained a high overall average, the level is much lower in certain geographic areas and among certain demographic groups. To address this issue, the NPRM invites comment on how to improve subscribership.

The NPRM (at para. 10) notes that many who do not currently have telephone service were once connected to the network, but were disconnected because of inability to pay for, or to control, use of long distance services. As a result, the NPRM (at para. 18) seeks comment on whether the Commission should require only exchange

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1 Notice of Proposed Rulemaking, FCC 95-281 (released July 20, 1995).

carriers to provide reasonably priced "interstate long-distance restriction services," and (NPRM at para. 26) to "adjust deposit requirements for low-income subscribers that agree to accept voluntary toll restriction service." The NPRM (at para. 31) also requests input as to whether the Commission should prohibit "interrupting or disconnecting a telephone subscriber's primary local exchange service for failure to pay interstate long-distance charges."

Further, the Notice seeks comment on various revisions to the existing Link Up (NPRM at paras. 22-25) and Lifeline (NPRM at paras. 34-36) programs that assist low income households to install service and to afford the monthly charges; and (at paras. 46-52) solicits suggestions regarding programs that could help make consumers aware of assistance mechanisms and knowledgeable about the availability of telephone service options.

Finally, the Notice (at paras. 37-39) seeks information concerning services or technologies that could be useful to highly mobile low income individuals, or (NPRM at paras. 40-41) that could extend the availability of service in unserved areas.

DISCUSSION

I. THE FCC's PROGRAM -- WHICH SHOULD BE GROUNDED IN THE WIDE RANGE OF CONSIDERATIONS RESULTING IN A CONSUMER DECISION TO DISPENSE WITH TELEPHONE SERVICE -- SHOULD NOT IMPOSE NEW REGULATORY REQUIREMENTS.

Under its statutory charter,[2] it is an appropriate concern of the Commission that the opportunity to receive telephone service extends to all populations within the

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[2] *See*, 47 U.S.C. Section 151.

country. GTE shares this concern. As a co-sponsor of a comprehensive study addressing the factors that prevent telephone subscribership,[3] GTE agrees with the Commission's approach (NPRM at para. 11) to "increas[ing] telephone subscribership by targeting regulatory initiatives closely to respond to the specific reason why subscribers drop off the network and tend to stay off."

GTE is confident that the information provided by participants in this proceeding will show that numerous service options useful to low income individuals seeking to control their telecommunications expenditures are already available. Further, state regulatory agencies are active in this area and very close to the universal service issue, while local service providers are occupied in a variety of activities designed to achieve the same objective the Commission seeks. Under these circumstances, GTE suggests there is no need for imposition of new federal requirements aimed at increasing telephone subscribership.

GTE must express concern about implications contained in para. 11 of the Notice (paras. 11, 16-19, 30) that an increase in subscribership is an unqualified and commendable achievement, a "success," regardless of impact on other consumers or on service providers. Such an implication ignores such other critical and offsetting considerations as:

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3 *See*, the "*California Affordability Study*", one of the studies referred to by the Notice at n.8. Other studies referred to by NPRM n.8 are *Mueller and Schement* and *C & P Penetration Study*.

(i) The negative effects of encouraging irresponsible behavior and evasion of legitimate charges -- as does the Pennsylvania plan, which is shown *infra*.

(ii) Significant costs and administrative burdens, that would fall on other customers and/or the public at large.

(iii) Technical and practical limits associated with cutting off access to interstate calling only. As shown *infra*, evaders of involuntary toll restrictions have proved to be resourceful and relentless in finding ways around barriers. Implementing a secure plan to assure termination of access to interstate calling will involve significant difficulties.

(iv) The risk of undermining the foundation of a genuinely competitive environment for telecommunications by still another step in the direction of asymmetric requirements, *i.e.*, requirements imposed on only certain competitors (LECs) that increase their overall per customer costs of providing service in a far greater proportion than for other service providers. Any decision that regulatory burdens are required in the public interest should logically apply to all service providers. To the extent regulatory intervention in a competitive market is justified, far from imposing unfair and asymmetric burdens, regulation should be concerned with being sure there are incentives for suppliers of all kinds to implement the targeted program adopted.

The Notice (at para. 3) reflects the misapprehension that the main cause of low subscribership is long distance charges themselves. The full record will make it clear that the causes are numerous, including: (i) an absolute lack of money on the part of customers (being destitute); (ii) lack of sufficient money both to meet core needs and have telephone service (being poor); (iii) inability or unwillingness of customers to control available resources in a responsible way so as to pay for whatever is consumed (being irresponsible); (iv) lack of desire on the part of customers to have telephone service because it is perceived as a nuisance, a threat, or does not conform to their cultural norms (lack of sufficient desire or motivation);[4] or (v) a combination of several of the preceding, for example, being poor and choosing to use the telephone of a friend or neighbor or relative, a convenient coin telephone,[5] or a telephone at the place of employment (the availability of an alternative coupled with higher priorities for available limited resources).

These factors do not arise from the telephone network itself or from use of a particular service. Furthermore, changes to the telephone network or telephone company administrative policies are likely to have only a slight marginal impact on them. And yet measures taken to achieve even a slight marginal increase in

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[4] A recent study concluded that some households consciously choose cable TV service to telephone service. Reasons cited for this choice were: (a) fear that telephone service would expose them to charges they perceive as uncontrollable; (b) telephones can be a channel for undesirable interaction involving drugs and crime; and (c) government agencies and businesses, which these households view as threatening, may call them for matters such as bill collection. In contrast, these households believe: (a) cable TV offers inexpensive entertainment; (b) the many hours and large variety of entertainment provides more satisfaction to more members of the household than telephone conversations; (c) cable TV may keep children at home and away from dangerous streets; and (d) cable TV offers a visible sign of well-being in households with few material comforts. *See* press release dated February 23, 1995, entitled "Rutgers University Study Debunks Myths About Telephone Services," Rutgers School of Communication Information and Library Studies, Dr. Milton Mueller and Dr. Jorge Schement. *See Mueller and Schement.*

[5] Perhaps including reliance on either a long distance debit card, collect calling, or both.

subscribership based upon the proposals contained in the Notice could impose significant costs on the public at large and create a grave conflict with pro-competitive telecommunications policies adopted by the Commission, and likely to be adopted shortly by Congress.

What is necessary to promote telephone subscribership is a variety of service options tailored to differing consumer needs and offered by all local service providers, as well as an increased focus by public assistance agencies, service providers, and regulators on measures that will inform unserved segments of the population about those service options and the availability of public assistance measures.

In summary: There is no need for imposition of new federal requirements.

II. RATHER THAN IMPOSING NEW REGULATIONS TO IMPROVE SUBSCRIBERSHIP, THE COMMISSION SHOULD FOCUS ITS EFFORTS ON ADOPTING AN EFFECTIVE PROGRAM IN ITS UNIVERSAL SERVICE PROCEEDING, *D.80-286*.

One of GTE's main service offerings is local telephone service. In these comments, GTE describes the existing services, administrative practices and activities it uses to encourage telephone subscription. GTE is also introducing new services that serve as useful complements to, or even replacements for, traditional residential service.[6] GTE is confident that other local service providers and state regulatory agencies will place similar information in the record that will allow the Commission to determine that new federal regulations are not needed. In fact, such a determination would be consistent with past Commission practice.

When adopting the Joint Board's recommendations regarding Lifeline service, the Commission did not impose a mandatory federal program, but rather "strongly encourage[d]" the states and LECs to participate in the Lifeline program and stated that it had "every reason to expect that the states and local telephone companies will act in a responsible manner to preserve universal telephone service."[7] GTE knows of no change in circumstances over the intervening ten years that would lead the Commission to change its expectations or its policy.[8]

Further, of the twenty-eight states in which GTE operates, twenty-one have either authorized local competition or have an open proceeding that examines local competition. Another four states have announced plans to begin an examination of local competition issues. Fourteen of these twenty-eight states are actively considering

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6 GTE recently introduced a service that could be useful to highly mobile, low income individuals. *See* NPRM at para. 38. GTE's InContact℠ service is used in conjunction with residential service, and allows the customer to direct calls to terminate at virtually any other telephone number. In 1996, GTE plans to introduce in selected locations a new version of InContact℠ service that can be used as a substitute for residential service. This new service will incorporate an integrated voice mail box, and will allow the customer to direct calls to terminate at that voice mail box or at other telephone numbers, *e.g.*, the home of a relative, friend, or social agency.

7 MTS/WATS Market Structure, CC Docket No. 78-72 ("*D.78-72*"), and *D.80-286*, Decision and Order, FCC 85-643 (released December 27, 1985), at para. 8.

8 In fact, as the NPRM notes (at para. 34), thirty eight states participate in offering a Lifeline program.

universal service issues, and another eleven states have signaled their intention to examine universal service. It is clear that most state legislative and regulatory agencies already are actively engaged in examining the particular needs of the states, including exploring how to ensure universal service within the context of a competitive telecommunications market.

The Commission should take advantage of these activities of the states, and the states' knowledge of needs within each state and sensitivity to population groups facing unusual problems. A state regulatory agency has a "detailed knowledge of the local service providers' network capabilities and prices, and the needs of the various communities within its jurisdiction."[9] As it has often done in the past,[10] the Commission should defer to state experience when requiring consumer education.

The primary means by which the Commission can act to improve subscribership levels, particularly in unserved areas or high cost areas (NPRM at para. 40), is by acting to provide more effective high-cost assistance to local service providers in those areas. This is broadly being considered in *D.80-286*.

Unfortunately, proposals in that proceeding would reduce or eliminate high-cost assistance to the larger local service providers, based on the assumption that "small companies may be less able than large companies to hold down local rates by

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9 *D.80-286*, Notice of Proposed Rulemaking and Notice of Inquiry, FCC 95-282 (released July 13, 1995) ("*Universal Service NPRM*") at para. 76.

10 *See*, Rules and Policies Regarding Calling Number Identification Service -- Caller ID, Memorandum Opinion and Order on Reconsideration, CC Docket No. 91-281, Second Report and Order and Third Notice of Proposed Rulemaking, FCC 95-187 (released May 5, 1995) at para. 139: "[E]ducation efforts developed at the state level will provide useful guidance to carriers as they address local conditions."

averaging the costs of high-and low-cost areas."[11] Adoption of such measures would be a step in the wrong direction since they clearly conflict with the goals of increasing subscribership and encouraging genuine competition for local service. GTE suggests the following guiding principles:

First: Establishing a regulatory environment conducive to genuine competition requires creating a framework that is both (i) blind to the corporate identity of a service provider and (ii) technology neutral.[12] Any action that would increase the amount of hidden subsidies already present in exchange carrier prices would ignore the reality that, with the elimination of any "local exchange monopoly," LECs have lost the ability to cover these subsidies from monopoly rates.[13] Such action would distort the market by preventing competition based on each provider's own efficiency and resourcefulness -- for example, with regard to effective employment of technology -- because exchange carrier prices in low cost areas would be inflated to provide a subsidy for local service prices in high-cost areas.

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11 *See, Universal Service NPRM* at para. 40.

12 *See*, Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech - Illinois, 10 FCC Rcd 4596, 4604-05 (1995).

13 There cannot be any doubt that many of the largest and best financed telecommunications companies in the nation are aiming at providing local service in competition with exchange carriers. *See* "AT&T Eagerly Plots A Strategy to Gobble Local Phone Business," Wall Street Journal, August 21, 1995, at A1, A4. *See also*, "AT&T Seems To Call Truce In Price Wars," Wall Street Journal, August 18, 1995, at A3, describing the apparent truce that has developed in the price wars between the largest Interexchange Carriers ("IXCs"). This truce, that avoids "bruising" price battles, will presumably furnish the resources needed to enter the local exchange market. *See,* the employment advertisement placed by MFS Communications Company, Inc., seeking individuals with "a thorough understanding of switched local exchange networks." Wall Street Journal, August 21, 1995, at B14.

Second: Establishing assistance amounts based upon an arbitrary and predetermined total fund size ignores the legitimate needs of customers, and potential customers, in areas that are costly to serve.

Third: Such action would greatly reduce the incentive for exchange carriers to invest in infrastructure in high-cost areas, since the more customers that would be served, the greater would be the need for internal subsidies from low-cost areas. Or, if internal subsidies were not available or practical to obtain due to competition in the low cost area, each customer gained would represent a loss. That would not be a prudent way to conduct affairs in a for-profit business.

In *D.80-286*, GTE has recommended to the Commission a framework that would replace today's reliance on hidden universal support with a new program that would be far more effective. GTE's proposal: (i) carefully targets high-cost assistance to specific geographic areas, (ii) is neutral with respect to the identity of a service provider or the choice of technology, (iii) minimizes the support burden on any single entity, and (iv) allows any local service provider agreeing to meet minimum criteria to obtain assistance.[14] GTE continues to urge the Commission to adopt GTE's *D.80-286* recommendations.

This would begin the process of reforming archaic universal service support mechanisms to make them sustainable in a competitive telecommunications market environment. Among the many beneficial results of this reform would be to allow for an

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[14] The GTE plan for universal service support was fully detailed in GTE's Comments and GTE's Reply Comments filed September 28, 1994, and December 2, 1994, respectively, in *D.80-286*.

effective response to the questions raised by the Notice. A new assistance program that would provide an appropriate amount of high-cost support to any local service provider would permit an increase in the level of telephone subscribership in high-cost areas.

In summary: Rather than imposing new federal regulations aimed at increasing telephone subscribership, the Commission would achieve more by focusing its efforts on changing the current hodgepodge of universal service assistance mechanisms that rely heavily on hidden subsidy flows into a new program that fosters competition and allows each service provider -- including large exchange carriers -- to compete on their own merits.

III. THE COMMISSION SHOULD NOT ADOPT MEASURES INTENDED TO INCREASE SUBSCRIBERSHIP THAT ARE APPLICABLE ONLY TO EXCHANGE CARRIERS.

The NPRM (at para. 17) proposes to require only exchange carriers to develop and offer an interstate-only toll blocking service, and (at para. 30) proposes to prohibit only LECs from disconnecting local service for non-payment of toll service.[15] The NPRM (at para. 19) also asks whether a requirement for only LECs to offer a new interstate only blocking service "would affect competition among competitive local service providers for local exchange customers." With respect to application only to exchange carriers of any of the proposed Commission requirements discussed in the

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[15] Paragraphs 30 and 32 speak of requirements for local exchange carriers, yet paragraph 31 uses the phrase "any common carrier." The Commission's intent is unclear. GTE interprets the predominance of references to LECs to mean that only exchange carriers are proposed to bear this responsibility.

NPRM, GTE's answer is an emphatic "yes" -- competition for local exchange customers would be distorted.

As described *infra*, a mandate for exchange carriers to offer an interstate-only toll blocking service would require LECs to expend considerable resources to develop a service of questionable effectiveness and for which the demand is uncertain, when viable alternatives are already available.[16] This expenditure would be intended to attract customers with a higher than normal probability of ultimately being disconnected for failure to pay for service, and with a low revenue opportunity for those that do remain connected. The result would be a diversion of LEC resources and higher LEC costs. This would yield a competitive advantage for new entrants, especially since new entrants are already likely to target their efforts to attract customers with high revenue opportunities and a good payment history. Such action would exacerbate the asymmetric regulatory structure that now exists.

The same would be true for a prohibition on disconnecting local service for failure to pay for long distance service, or for imposition of arbitrary limits on deposit amounts. If LECs alone must provide a prescribed service, then LECs alone would attract those customers that would abuse the system. The higher uncollectibles -- shown to be inevitable, *infra* -- would have to be either "eaten" by the company or borne by other customers of both exchange carriers and IXCs. Competing local service

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[16] Conspicuously absent from the NPRM is any discussion of action that IXCs could or should take to restrict the amount of toll charges a customer with a poor payment history could accrue. Since the charges that often lead to payment problems are for IXC services rather than for LEC services, an argument can certainly be made that IXCs should take a leading role in helping customers control those charge levels. *See* n.31, n.34, n.36 and n.37, *infra*.

providers would not have similar costs to incorporate in their prices, and would benefit from an unfair regulation-derived competitive advantage.

Further, imposing the proposed requirements only on exchange carriers would place a double burden on LECs. Not only would LECs be obliged to serve the most costly customers in the aggregate, *i.e.*, in terms of categories of customers -- such as those living in high-cost areas; exchange carriers would further be required to carry the individuals that are the most troublesome, while LEC competitors would be free to cream-skim to their hearts content.

In summary: GTE recommends against adopting the Notice's proposals for new federal regulations aimed at increasing telephone subscribership. If any such requirements are adopted, it would be bad public policy to apply them only to exchange carriers because this would adversely affect the ability of exchange carriers to compete equally with other common carriers offering substitutes for traditional residential local service.

IV. ADOPTION OF MEASURES TO INCREASE SUBSCRIBERSHIP LEVELS MUST INCLUDE THE ABILITY FOR THE LOCAL SERVICE PROVIDER TO RECOVER ALL ASSOCIATED COSTS.

The NPRM asks for inputs regarding prices that would fully recover the costs of providing new services aimed at increasing subscribership levels, for detailed information concerning needed administrative and implementation activities and associated costs, and invites parties advocating external funding to describe those needs.[17]

With respect to measures requiring development of a specific new service, prices should be set at a level that fully recovers the costs. If such prices are deemed to be unaffordable by the low income customers for whom they are designed, then an explicit governmental mechanism at the federal and/or state levels must be established to ensure that the exchange carrier -- and any other local service providers to which such requirements apply -- are fully compensated.

Non-service requirements, *e.g.*, a prohibition on disconnection of local service for the failure to pay for interstate long distance services, or arbitrary limits on deposit amounts, or educational requirements that go beyond the measures a local service provider would choose to employ, would raise a host of administrative and cost recovery issues.

As an example, for a prohibition on disconnection, the costs that must be recovered are associated with a number of initial implementation and ongoing administrative processes, as well as the inevitable higher level of uncollectible revenues. Billing system changes must be developed and implemented to segregate charges for basic local service from charges for discretionary local "vertical" service and

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[17] The Notice at para. 17 seeks information as to the prices exchange carriers would need to charge for an interstate-only toll restriction service. NPRM para. 33 asks for comment on "any technical issues that may be related to selective disconnection and other issues that may arise concerning the procedures and the costs and other impacts of implementation." NPRM para. 51 asks parties that support some funding for educational programs to provide full details.

from intrastate and interstate toll.[18] Further, procedures for crediting partial payments, for payment requirements during a period when a disputed charge is reconciled, and for collection methods, must all be developed and implemented. Some process for distinguishing between intrastate and interstate uncollectible revenues must be created, *i.e.*, if local service charges are allowed to accrue -- disconnection being forbidden -- and those revenues are ultimately not recoverable.

In addition, any loss that ultimately results from a Commission mandate to cap a deposit amount (NPRM at para. 26) also must be funded from an explicit external source. GTE's deposit policies are designed to reflect GTE's assessment both of the risk of non-payment and the maximum amount of bill that customers can be expected to afford.[19] GTE must be free to employ prudent business practices in order to avoid unreasonably high levels of uncollectible revenues. A federal mandate that does not allow GTE to exercise its judgment, that replaces business judgment with a governmental prescription that ignores an individual customer's credit history, would ultimately produce increased costs that should be borne by the issuer of the prescription.

Serious questions should be asked about any such proposal. Is government teaching the lesson that it will intervene to impose bad business decisions on regulated

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[18] As GTE discusses *infra*, both intrastate and interstate toll charges are possible, even with a line that is "blocked" from completing long distance calls.

[19] GTE requires customers requesting new service to provide positive proof of their identity. A customer's previous payment history with GTE, or alternatively, credit information from a commercial credit agency, is used to assess an individuals creditworthiness and establish a deposit level.

companies so that classes of favored customers will not have to be responsible for their own behavior? In any case, a competitive environment destroys the ability of regulation to take arbitrary action of this kind.

Further, federal funding would be required to support a mandatory special educational effort beyond those a local service provider would choose. Educational and marketing efforts aimed at narrow population segments are much more expensive on a per customer basis than normal brand recognition advertising. As an indicator, in a current California effort, the short term cost is estimated to be over $100 per subscriber gained.[20]

In GTE's opinion, recovery of the increased costs associated with non-service related mandates is the single most difficult issue. If the nation's telecommunications industry were still the closed system that existed in the 1970s, and the Commission imposed a costly requirement, the LECs would recover from the customer base at large. In today's environment -- and even more so in tomorrow's -- it is not so simple. Responsible public policy demands attention to how costs imposed by governmental mandate are to be recovered. If recovery is not provided for, or cannot be achieved given the effects of competition, it would raise the question of confiscatory action and consequent violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States.

The effect of adoption of measures such as interstate-only toll restriction service, disconnection prohibition, special extraordinary educational and marketing activities,

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20 *See* Attachment A and Section VIII *infra*.

and deposit limits, will all require exchange carriers to incur both initial implementation costs, and increased ongoing costs because of new administrative expenses and losses from non-payment for services rendered. The Commission cannot require those costs to be recovered through state service prices, so either a federally tariffed service or a federal funding program must be created.[21]

However, there is no interstate "service" being offered that can be tariffed and billed to customers. Further, higher costs cannot be recovered through IXC customers, and ultimately to end user customers using IXC services, through an exogenous price cap adjustment (if allowed), since exogenous adjustments do not guarantee cost recovery.[22] The FCC, if it established these mandates, would have to concern itself with assuring availability of the necessary funding to any local service provider to which subscribership mandates apply.

To the extent that the Commission does determine that additional direct action is necessary, and thus **requires** local service providers to implement new programs aimed at increasing telephone subscribership, such programs should be either (i) financially self-sufficient, or (ii) supported by an explicit support mechanism provided by

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21 State regulatory agencies also will be forced to address the higher uncollectible revenue amounts associated with local and other intrastate services, and to design mechanisms that permit recovery of those losses.

22 Governmental action imposing a new and costly requirement would constitute an exogenous change for price cap purposes even under the FCC's more stringent rule excluding from the exogenous concept accounting changes devoid of economic cost impact. Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1, First Report and Order, FCC 95-132 (released April 7, 1995), *petition for review filed sub nom.* Bell Atlantic Operating Companies v. FCC, No. 95-1217 (D.C. Cir. filed April 19, 1995) at para. 293.

government, a mechanism that is not funded through prices for telecommunications services. A less desirable alternative is funding through telecommunications prices; but this should not be asymmetric. Just as any service provider furnishing the required service should be eligible to receive support, mandated contribution must not be limited to exchange carriers.

In summary: Adoption of new federal regulations aimed at increasing subscribership levels must be accompanied by: (i) a combination of prices that fully recover the costs of specific new services, and (ii) explicit and effective funding for activities that are not directly chargeable to a customer and that a local service provider incurs directly as a result of a Commission mandate.

V. TOLL RESTRICTION SERVICES INVOLVE SERIOUS COMPLICATIONS AND UNCERTAINTIES, PARTICULARLY IN VIEW OF THE INGENUITY DISPLAYED BY TOLL EVADERS.

The NPRM (at para. 13) correctly notes that one of the leading contributors to lack of telephone subscribership is the inability of some individuals to pay for telephone service, and particularly to pay long distance charges. Accordingly, the NPRM (at para. 18) states that the Commission will consider whether a form of blocking service "that would block only those interstate calls for which the subscriber would be charged" (NPRM at para. 17) should be adopted.

Toll restriction can be a helpful tool for a customer to employ in order to control telephone charges. But the effectiveness of the tool has a relationship to the integrity of the customer. In other words, a knowledgeable customer can find ways to get around the barrier. Even with an interstate toll restriction service in place, customers still can accrue large toll bills. The primary culprits are conflicts between intrastate and